

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

<b>Case No.</b>	CV 12-7470-PA(CW)	<b>Date</b>	November 26, 2012
<b>Title</b>	Timothy Martin Kendrick v. Richard Ives (Warden)		

<b>Present: The Honorable</b>	Carla Woehrle, United States Magistrate Judge
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Donna Y. Thomas

n/a

n/a

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

n/a

n/a

**Proceedings:** (In Chambers)

Petitioner has filed four actions in this court: the present habeas petition, a dismissed habeas petition (No. CV 11-5798-PA(CW)), and two denied applications to file civil rights complaints without prepayment of the filing fee (No. CV 12-7133-UA(CW) and No. EDCV 12-1476-UA(CW)). In a letter dated November 14, 2012, Petitioner has requested to "withdraw" all four actions, correctly listing the present case (CV 12-7470) and two other cases (CV 12-7133 and EDCV 12-1476) and stating that he does not have a correct number for the fourth, a 2011 case (apparently CV 11-5798). [Letter filed November 19, 2012, as docket no. 14.] Petitioner is advised that his other three actions have all been dismissed or denied.

Petitioner's makes clear that he wishes to voluntarily dismiss the present habeas petition. Respondent has filed a motion to dismiss (for lack of jurisdiction and failure to exhaust administrative remedies) but has not filed an answer or motion for summary judgment. Accordingly, Petitioner is entitled to voluntarily dismiss the action, without a court order, by filing a notice of dismissal. Fed. R. Civ. P. 41(a)(1)(A)(i). Such a dismissal is normally without prejudice. Fed. R. Civ. P. 41(a)(1)(B). There is no evident reason why the present action should not be so dismissed.

It is therefore **ORDERED** as follows:

1. Respondent's motion to dismiss (docket no. 7, filed October 9, 2012) is **MOOT**.

2. Petitioner's "request" (docket no. 14, filed November 19, 2012) is construed as a notice of dismissal, and the clerk shall enter on the docket that this action is **DISMISSED WITHOUT PREJUDICE**.

cc: Pro Se Petitioner and All Counsel